IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

WA.No. 2692 of 2007

AGAINST THE JUDGEMENT IN WPC.18172/2007 Dated 21/08/2007

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APPELLANTS: WRIT PETITIONERS:

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1. E.D.FRANCIS,
   S/O.DEVASSY, AGED 72,
   ELAVATHINKAL, PERUVAYAL P.O.,
   PERUVAYAL AMSOM,
   KOZHIKODE.

2. T.M.GANESHAN,
   S/O.KANDANKUTTY, AGED 38,
   BHUVANESHWARI HOTEL, PALAYM,
   CALICUT.

3. PAVOOR BALAKRISHNAN,
   S/O.GOPALAN, AGED 67
   PUTHIYARA P.O.,
   KOZHIKODE.

4. A.VASU,
   S/O.APPU, AGED 77,
   AINOOR,
   KUTHIRAVATTOM P.O.,
   NELLIKODE VILLAGE.

BY ADV. SRI.C.P.MOHAMMED NIAS

RESPONDENTS: RESPONDENTS:

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1. THE KERALA STATE ELECTRICITY BOARD,
   REPRESENTED BY ITS CHAIRMAN,
   VYDHYUTHI BHAVAN,
   THIRUVANANTHAPURAM.

2. THE DEPUTY CHIEF ENGINEER,
KSEB, ELECTRICAL CIRCLE,
VYDHYUTHI BHAVAN, GANDHI ROAD,
KOZHIKODE - 11.

3. THE KERALA STATE ELECTRICITY REGULATORY COMMISSION,
THIRUVANANTHAPURAM.

BY SRI. C.K.KARUNAKARAN, STANDING COUNSEL K.S.E.B.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 21/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.M.JOSEPH, J.

W.A.No.2692 of 2007

Dated, this the 21st day of November, 2007

JUDGMENT

H.L.Dattu, C.J.

Challenging the correctness or otherwise of the orders passed by the learned Single Judge in W.P.(C) No.18172 of 2007 dated 21st August, 2007, the petitioners are before us in this appeal.

(2). In the writ petition, the petitioners had called in question the additional security demanded by the respondents under Sec.47 (2) & (3) of the Electricity Act, 2003.

(3). The learned Judge, while rejecting the writ petition has merely followed the dicta laid down by this Court in the case of ***Asokan Vs. K.S.E.B (2000 (1) KLT 432).***

(4). The Division Bench of this Court in the case of ***Asokan Vs. K.S.E.B (2000 (1) KLT 432)*** has observed as under.

> *"In terms of Clause 14(a) of the Conditions of Supply which are statutory in nature, the deposit by the consumer shall be 3 times the probable monthly current charges. The initial deposit is demanded and collected before effecting connection on the basis of the anticipated consumption. However, in course of time, due to increase in consumption, revision in tariff, etc. the amount deposited may be found insufficient to cover 3 months*

probable current charges. Under such circumstances, Clause 14 (d) of the Conditions of Supply permit demand of enhanced cash deposit from time to time. This demand, in our opinion, is strictly in accordance with the conditions of supply statutorily framed under S.79 (j) of the Electricity (Supply) Act and also as per the Service Connection Agreement executed between the parties."

(5). We do not doubt the correctness or otherwise of the decision rendered by this Court in ***Asokan Vs. K.S.E.B (2000 (1) KLT 432)***. Therefore, in our opinion, the learned Judge was justified in following the decision rendered by the Division Bench of this Court, while rejecting the writ petition. This is what is expected of the learned Judge in order to maintain the judicial discipline and decorum of this institution. That has been done in the instant case. Therefore, the appeal requires to be rejected and it is rejected.

Ordered accordingly.

(H.L.DATTU)
CHIEF JUSTICE

(K.M.JOSEPH)
JUDGE

MS